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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/992,236 | 11/06/2001 | Michael J. Muller | LOT9-2001-0012 | 5384 |
| 21127 | 7590 | 05/16/2005 | EXAMINER | |
| KUDIRKA & JOBSE, LLP ONE STATE STREET SUITE 800 BOSTON, MA 02109 | | | DETWILER, BRIAN J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2173 | |

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,236

Applicant(s)

MULLER, MICHAEL J.

Examiner

Brian J. Detwiler

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,769,028 to Sass et al. (hereinafter Sass).

Referring to claims 1, 12, 16-17, 24, and 26, Sass teaches a computer program product, apparatus, program code, and a method for collecting user evaluation feedback in a computer system having a display and capable of generating a user interface through which a user may interact with the system (i.e. Figs. 3-4).

Sass teaches:

(A) displaying on the graphic user interface an evaluation component (i.e. media player) comprising at least one displayed command option (i.e. col. 8, lines 22-33) and a plurality of evaluation feedback options (i.e. smiley icon and frowny icon; col. 9, lines 15 and 22);

(B) receiving user selection criteria for one of the evaluation feedback option(s) (col. 9, lines 10-30); and

Art Unit: 2173

(C) initiating execution of the displayed command option upon receipt of the user selection criteria identifying one of the plurality of evaluation feedback options (i.e. col. 9, lines 25-30).

As another example, see col. 16, lines 24-33, which describes how the selection of radio stations is used as feedback to determine what stations appeal to a user.

Referring to claims 2, 13, 18, 25, and 27, Sass discloses:

(D) recording user selection of one of the plurality of evaluation feedback option. See col. 9, lines 15-19.

Referring to claims 3, 14, and 19, Sass discloses that step (D) further comprises:

(D1) initiating modification of counter value associated with the selected evaluation feedback option. See col. 9, lines 30-39, which describes collecting (counting) the feedback data for several users.

Referring to claims 4, 15, and 20, Sass discloses that step (D) further comprises:

(D1) initiating modification of a record value (i.e. within the personal profile) associated with the selected evaluation feedback option. See col. 9, lines 16-21.

Referring to claims 5 and 21, Sass discloses that step (D) further comprises:

Art Unit: 2173

(D2) transmitting the modified record value associated with the selected evaluation feedback option to a database (i.e. the database that stores the personal profiles). See col. 9, lines 16-21 and col. 11, line 65 – col. 12, line 10.

Referring to claims 6 and 22, Sass discloses:

(D) initiating execution of a command associated with one of the plurality of the displayed evaluation feedback options (i.e. opening a web page or updating a profile; col. 9, lines 14-30).

Referring to claims 7 and 23, Sass discloses that step (A) further comprises:

(A1) rendering the evaluation component with a separate user selectable sub region for the displayed command option and a separate user selectable sub region for the plurality of evaluation feedback options. For example, each of the icons described in col. 8, lines 22-33 are command options with a separate selectable sub region than icons 390 (smiley and frowny icons).

Referring to claim 8, Sass discloses that the plurality of evaluation feedback options are rendered as icons. See Fig. 3, 390 and col. 9, lines 15 and 22.

Referring to claim 9, Sass discloses that the evaluation component is rendered a part of an application user interface (media player; Fig. 3, 300).

Referring to claim 10, Sass discloses the evaluation component is rendered as part of a web page. See col. 8, line 54 – col. 9, line 40, which describe the integration of the evaluation icons and web pages.

Referring to claim 11, Sass discloses that the evaluation component is rendered as part of a browser application. See col. 6, line 50 – col. 7, line 4, which describes how the media player is an interface for Internet content.

Response to Arguments

Applicant's arguments filed 6 January 2005 have been fully considered but they are not persuasive. Applicant asserts that the Sass reference fails to anticipate the claims as presently amended. More specifically, applicant asserts that the Sass reference fails disclose initiating both execution of the displayed command option and recordation of an evaluation rating by selecting one of the evaluation icons. Whether or not Sass teaches or suggests this feature is moot in view of the limitations actually recited in the claims. The independent claims as presently amended require “initiating execution of the displayed command option, upon receipt of the user selection criteria identifying one of the plurality of evaluation feedback options.” This language merely requires that the displayed command option be executed at some point subsequent the selection of the user selection criteria. Accordingly, the steps of selecting criteria and then subsequently selecting the displayed command option anticipate the claimed invention. The Sass disclosure clearly provides an interface supporting this limitation as discussed above. The rejections over the prior art of record are thus maintained for at least this reason.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

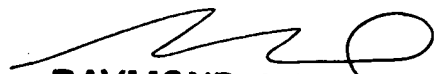
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Detwiler whose telephone number is 571-272-4049. The examiner can normally be reached on Mon-Thu 8-5:30 and alternating Fridays 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on 571-272-4048. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2173

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bjd



RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173